

REMARKS

This paper is in response to the Office Action dated January 30, 2004. Accordingly, this response is timely.

Claims in the Application.

Claims 1-34 are pending in this Application. Claims 15-20, 22, 25-31, 33, and 34 have been allowed. Claims 1, 2, 6, 8-11, 14, 21, 23, 24, and 32 have been rejected. Claims 3-5, 7, 12, and 13 have been objected to. Claims 1, 2, 8-10, 15, 21, 23, 24, 29, and 32 have been amended. The Applicants respectfully request an allowance of the claims as amended.

Objection to the Claims.

The Examiner has objected to Claims 1, 8, 15, and 29 for a typo and for vagueness. The amendment of these claims obviates a discussion of these Objections. Reconsideration is respectfully requested.

Rejection under 35 U.S.C. § 112, Second Paragraph.

The Examiner has rejected Claims 2, 8-10, 21, 23-24, and 32 as being indefinite. Each of these claims has been amended. The amendment of these claims obviates a discussion of these Rejections. Reconsideration is respectfully requested.

Objection to the Specification and Abstract.

The Examiner has objected to the Specification and the Abstract. The amendment of the Specification and the Abstract has obviated a discussion of these Objections. Reconsideration is respectfully requested.

Rejection under 35 U.S.C. § 103(a).

The Examiner has rejected Claims 1, 6, and 14 under 35 U.S.C. § 103(a) in light of Sheth, "Federal Database Systems for Managing Distributed, Heterogeneous, and Autonomous Databases," ("Sheth") in view of U.S. Patent No. 6,615,223 ("Shih"). To properly reject a claim under Section 103, the Examiner must view the claimed invention as a whole. *See, e.g.,* *Hartness Int'l Inc. v. Simplimatic Eng'g Co.*, 819 F.2d 1100, 1108 (Fed. Cir. 1987); *see also In*

re Fritch, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (holding that “[i]t is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious.”). A prior art reference may be considered to teach away when “a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.” *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994).

Claims 1 and 6 in light of *Sheth* and *Shih*.

In the present application, the Examiner notes that the element of an application replica database as claimed is not taught by *Sheth*. Claim 1 requires a database system comprising at least one application master database and at least one application replica database. *Sheth* actually teaches away from this element by teaching that “[t]he three-level schema must be extended to support the three dimensions of a federated database system—distribution, heterogeneity, and autonomy.” *Sheth*, p. 198. *Sheth*’s heterogeneity and autonomy are distinct from the present invention and *Sheth* follows the failures that are found in the embodiments found in the Background of the Invention. *Sheth*’s schema upgrades are made in the master and these upgrades are distributed to the replicas transparently using some hard-coded rules and *Sheth* does not support outsourcing the runtime configuration control of distributed systems to third parties. *Sheth* does fail to teach the application replica database required by the claims.

Shih fails to cure the deficiencies of *Sheth*, because

It is impermissible within the framework of Section 103 to pick and choose from any one reference only so much as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art.

In re Westlaw, 353 F.2d 238, 241 (C.C.P.A. 1965); *see also SmithKline Diagnostics, Inc. v. Helena Labs. Corp.*, 859 F.2d 878, 887 (Fed. Cir. 1988). *Shih* may offer replication of data, but for a different purpose. *Shih* teaches away from the present invention by teaching that the server issues the change instructions to implement the requested changes. *See, e.g., Shih*, col. 4, ll. 59-60. This teaches away from the external management as claimed in the claims of the present application. For this reason alone, *Shih* not only fails to cure the deficiencies of *Sheth*, but also

teaches away from the present invention as claimed. The Applicants respectfully request reconsideration of Claim 1 and the claims dependent thereto.

Claims 8-10 in light of *Sheth* in view of *Shih* and *Dugan*.

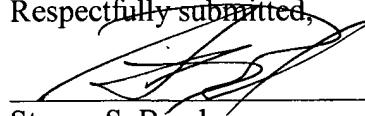
For these reasons, *Shih* is also inappropriate to cure the deficiencies of *Sheth* with respect to Claims 8-10. The Examiner also cites U.S. Patent No. 6,363,411 ("*Dugan*") as teaching an intelligent distributed network architecture. *Dugan*, however, cannot cure the deficiencies already noted with respect to Claim 1. Therefore, the dependent Claims 8-10 are inventive and the citation *Dugan* fails to cure the deficiency.

Claim 11 in light of *Sheth* and *Shih* and Admitted Prior Art.

The Examiner claims that the admitted prior art Fig. 1 cures *Sheth*'s and *Shih*'s failure to teach the database is a database node residing in a database server. Applicants have perused the description of Fig. 1 and do not find any support for the Examiner's contention that a database node is taught by the description of Fig. 1. In fact, this description teaches away from the database node by teaching the deficiencies of not having a database node. The rest of the Background of the Invention highlights these deficiencies. For these reasons, Fig. 1 and its description does not cure the deficiencies of *Sheth* or *Shih*. Reconsideration is respectfully requested.

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Respectfully submitted,



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